

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ERIC FRITZGERALD LEWIS,

Plaintiff,

v.

**UNIVERSITY MEDICAL CENTER, et
al.,**

Defendants.

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CASE NO. 4:07CV3012

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Motion for Refund of Filing Fee. (Filing No. 26.) In his Motion, Plaintiff seeks the return of the \$145.00 he paid towards the filing fee prior to the dismissal of this case. Plaintiff states that he should not have paid the filing fee because he was proceeding in forma pauperis in this matter.

Pursuant to the Prison Litigation Reform Act ("PLRA"), a prisoner plaintiff is required to pay the full amount of the court's \$350.00 filing fee by making monthly payments to the court, even if the prisoner is proceeding IFP. 28 U.S.C. § 1915(b). "[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001). Further, a prisoner plaintiff remains responsible for the entire filing fee, as long as he is a prisoner, even if the case is dismissed at some later time. *Tyler*, 110 F.3d at 529-30; *Jackson*, 173 F. Supp. 2d at 951.

Here, Plaintiff was a prisoner at the time he filed this action. At the time of the dismissal, Plaintiff was a patient at the Lincoln Regional Center. (Filing No. 18.) In its July 20, 2007, Memorandum and Order, the court informed Plaintiff that for purposes of collecting the filing fee, the court would presume that Plaintiff was no longer a prisoner.

(*Id.*) Therefore, any filing fee payments made prior to that time, while Plaintiff was still a prisoner, were made in accordance with the PLRA and should not be refunded. However, Plaintiff was relieved from any further filing fee obligation.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Refund of Filing Fee (Filing No. 26) is denied.

DATED this 17th day of April, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge